

IN THE UNITED STATES DISTRICT FOR  
THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION

DENNIS EUGENE ALLEN

VS.

DIRECTOR, TDCJ-CID

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CIVIL ACTION NO. 5:16cv55  
(Consolidated with 5:16cv53,  
5:16cv54 and 5:16cv56)

MEMORANDUM ORDER ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Dennis Eugene Allen, proceeding *pro se*, filed the above-styled consolidated petitions seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court previously referred this matter to the Honorable Caroline M. Craven, United States Magistrate Judge, for consideration pursuant to 28 U.S.C. § 636(b)(1) and (3).

On May 22, 2018, the Magistrate Judge submitted a Report and Recommendation ("Report") recommending the consolidated petitions be denied. Docket No. 18 at 14. Petitioner acknowledged receipt of the Report on June 1, 2018. Docket No. 19. No objections to the Report and Recommendation were filed. Thus, any aggrieved party is barred from *de novo* review by the district court of the proposed findings and recommendations of the Magistrate Judge.

The Court agrees with the Magistrate Judge that Petitioner's claims of bias, trial error and ineffective assistance of counsel are unsupported and without merit. There being no grounds of plain error or manifest injustice, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court.

Accordingly, the Magistrate Judge's Report and Recommendation is **ADOPTED** in its entirety as the opinion of the Court and these consolidated petitions are **DENIED WITH PREJUDICE**.

Additionally, the Court finds that petitioner is not entitled to a certificate of appealability. An appeal from a judgment denying post-conviction collateral relief may not proceed unless a judge issues a

certificate of appealability. *See* 28 U.S.C. § 2253. The standard for a certificate of appealability requires the petitioner to make a substantial showing of the denial of a federal constitutional right. *See Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); *Elizalde v. Dretke*, 362 F.3d 323, 328 (5th Cir. 2004). To make a substantial showing, the petitioner need not demonstrate he would prevail on the merits. Rather, he must demonstrate the issues are subject to debate among jurists of reason, that a court could resolve the issues in a different manner, or that the questions raised are worthy of encouragement to proceed further. *See Slack*, 529 U.S. at 483-84. Any doubt regarding whether to grant a certificate of appealability should be resolved in favor of the petitioner, and the severity of the penalty may be considered. *See Miller v. Johnson*, 200 F.3d 274, 280-81 (5th Cir. 2000).

In this case, Petitioner has not shown that the issues raised by his claims are subject to debate among jurists of reason. Nor has he shown that the questions presented are worthy of encouragement to proceed further. Therefore, Petitioner has failed to make a sufficient showing to merit the issuance of a certificate of appealability. Accordingly, a certificate of appealability will not be issued.

**So ORDERED and SIGNED this 20th day of July, 2018.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE